

109TH CONGRESS  
2D SESSION

# H. R. 125

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IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2005

Received; read twice and referred to the Committee on Environment and  
Public Works

JULY 17, 2006

Committee discharged; referred to the Committee on Energy and Natural  
Resources

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## AN ACT

To authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. DEFINITIONS.**

2 For the purposes of this Act, the following definitions  
3 apply:

4 (1) DISTRICT.—The term “District” means the  
5 Fallbrook Public Utility District, San Diego County,  
6 California.

7 (2) PROJECT.—The term “Project” means the  
8 impoundment, recharge, treatment, and other facili-  
9 ties the construction, operation, watershed manage-  
10 ment, and maintenance of which is authorized under  
11 section 2.

12 (3) SECRETARY.—The term “Secretary” means  
13 the Secretary of the Interior, unless otherwise stat-  
14 ed.

15 **SEC. 2. AUTHORIZATION FOR CONSTRUCTION OF SANTA**  
16 **MARGARITA RIVER PROJECT.**

17 (a) AUTHORIZATION.—The Secretary, acting pursu-  
18 ant to the Federal reclamation laws (Act of June 17,  
19 1902; 32 Stat. 388), and Acts amendatory thereof or sup-  
20 plementary thereto, as far as those laws are not incon-  
21 sistent with the provisions of this Act, is authorized to  
22 construct, operate, and maintain the Project substantially  
23 in accordance with the final feasibility report and this Act.

24 (b) CONDITIONS.—The Secretary may construct the  
25 Project only after the Secretary determines that the fol-  
26 lowing conditions have occurred:

1           (1) The District has entered into a contract  
2           under section 9(d) of the Reclamation Project Act of  
3           1939 to repay to the United States appropriate por-  
4           tions, as determined by the Secretary, of the actual  
5           costs of constructing, operating, and maintaining the  
6           Project, together with interest as hereinafter pro-  
7           vided.

8           (2) The officer or agency of the State of Cali-  
9           fornia authorized by law to grant permits for the ap-  
10          propriation of water has granted such permits to the  
11          Bureau of Reclamation for the benefit of the De-  
12          partment of the Navy and the District as permittees  
13          for rights to the use of water for storage and diver-  
14          sion as provided in this Act, including approval of all  
15          requisite changes in points of diversion and storage,  
16          and purposes and places of use.

17          (3) The District has agreed that it will not as-  
18          sert against the United States any prior appropria-  
19          tive right the District may have to water in excess  
20          of the quantity deliverable to it under this Act, and  
21          will share in the use of the waters impounded by the  
22          Project on the basis of equal priority and in accord-  
23          ance with the ratio prescribed in section 4(b). This  
24          agreement and waiver and the changes in points of  
25          diversion and storage under paragraph (2), shall be-

1       come effective and binding only when the Project  
2       has been completed and put into operation.

3           (4) The Secretary has determined that the  
4       Project has economic, environmental, and engineer-  
5       ing feasibility.

6   **SEC. 3. COSTS.**

7       The Department of the Navy shall not be responsible  
8       for any costs in connection with the Project, except upon  
9       completion and then shall be charged in reasonable pro-  
10      portion to its use of the Project under regulations agreed  
11      upon by the Secretary of the Navy and Secretary of the  
12      Interior.

13   **SEC. 4. OPERATION; YIELD ALLOTMENT; DELIVERY.**

14      (a) OPERATION.—The operation of the Project, sub-  
15      ject to a memorandum of agreement between the Sec-  
16      retary, the Navy, and the District and under regulations  
17      satisfactory to the Secretary of the Navy with respect to  
18      the Navy's share of the project, may be by the Secretary,  
19      the District, or a third party consistent with section 6.

20      (b) YIELD ALLOTMENT.—Except as otherwise agreed  
21      between the parties, the Department of the Navy and the  
22      District shall participate in the Project yield on the basis  
23      of equal priority and in accordance with the following  
24      ratio:

1           (1) 60 percent of the Project's yield is allotted  
2           to the Secretary of the Navy.

3           (2) 40 percent of the Project's yield is allotted  
4           to the District.

5           (c) CONTRACTS FOR DELIVERY OF EXCESS  
6 WATER.—

7           (1) EXCESS WATER AVAILABLE TO OTHER PER-  
8           SONS.—If the Secretary of the Navy certifies to the  
9           official agreed upon to administer the Project that  
10          the Department of the Navy does not have imme-  
11          diate need for any portion of the 60 percent of the  
12          Project's yield allotted to the Secretary of the Navy  
13          under subsection (b), the official may enter into tem-  
14          porary contracts for the sale and delivery of the ex-  
15          cess water.

16          (2) FIRST RIGHT FOR EXCESS WATER.—The  
17          first right to excess water to be made available  
18          under paragraph (1) shall be given the District, if  
19          otherwise consistent with the laws of the State of  
20          California.

21          (3) CONDITION OF CONTRACTS.—Each contract  
22          entered into under paragraph (1) for the sale and  
23          delivery of excess water shall include a condition  
24          that the Secretary of the Navy has the right to de-  
25          mand that water, without charge and without obliga-

tion on the part of the United States, after 30 days notice.

(4) MODIFICATION OF RIGHTS AND OBLIGATIONS RELATED TO WATER YIELD.—The rights and obligations of the United States and the District regarding the ratio or amounts of Project yield delivered may be modified by an agreement between the parties.

(d) CONSIDERATION.—

(1) DEPOSIT OF FUNDS.—Moneys paid to the United States under a contract entered into under subsection (c) shall be deposited in the special account established for the Department of the Navy under paragraph (1) of section 2667(d) of title 10, United States Code, and shall be available for the purposes specified in subparagraph (C) of such paragraph. Subparagraph (D) of such paragraph shall not apply to moneys deposited in the special account pursuant to this subsection.

(2) IN-KIND CONSIDERATION.—In lieu of monetary consideration under paragraph (1), or in addition to such consideration, the Secretary of the Navy may accept in-kind consideration in a form and quantity that is acceptable to the Secretary of the

1 Navy, including the following forms of in-kind con-  
2 sideration:

3 (A) Maintenance, protection, alteration, re-  
4 pair, improvement, or restoration (including en-  
5 vironmental restoration) of property or facilities  
6 of the Department of the Navy.

7 (B) Construction of new facilities for the  
8 Department of the Navy.

9 (C) Provision of facilities for use by the  
10 Department of the Navy.

11 (D) Facilities operation support for the  
12 Department of the Navy.

13 (E) Provision of such other services as the  
14 Secretary of the Navy considers appropriate.

15 (3) RELATION TO OTHER LAWS.—Sections  
16 2662 and 2802 of title 10, United States Code, shall  
17 not apply to any new facilities whose construction is  
18 accepted as in-kind consideration under this sub-  
19 section.

20 (4) CONGRESSIONAL NOTIFICATION.—If the in-  
21 kind consideration proposed to be provided under a  
22 contract to be entered into under subsection (c) has  
23 a value in excess of \$500,000, the contract may not  
24 be entered into until the earlier of the following:

1 (A) The end of the 30-day period begin-  
2 ning on the date on which a report describing  
3 the contract and the form and quantity of the  
4 in-kind consideration is submitted by the Sec-  
5 retary of the Navy to the Committee on Armed  
6 Services of the Senate and the Committee on  
7 Armed Services of the House of Representa-  
8 tives.

9 (B) The end of the 14-day period begin-  
10 ning on the date on which a copy of the report  
11 referred to in subparagraph (A) is provided in  
12 an electronic medium pursuant to section 480  
13 of title 10, United States Code.

14 **SEC. 5. REPAYMENT OBLIGATION OF THE DISTRICT.**

15 (a) IN GENERAL.—The general repayment obligation  
16 of the District shall be determined by the Secretary of the  
17 Interior consistent with the Water Supply Act of 1958;  
18 provided, however, that for the purposes of calculating in-  
19 terest and determining the time when the District's repay-  
20 ment obligation to the United States commences, the  
21 pumping and treatment of groundwater from the Project  
22 shall be deemed equivalent to the first use of water from  
23 a water storage project. There shall be no repayment obli-  
24 gation under this section for water delivered to the Dis-  
25 trict under a contract as provided in section 4(c).



1 (b) MODIFICATION OF RIGHTS AND OBLIGATION BY  
2 AGREEMENT.—The rights and obligations of the United  
3 States and the District regarding the repayment obliga-  
4 tion of the District may be modified by an agreement be-  
5 tween the parties.

6 **SEC. 6. TRANSFER OF CARE, OPERATION, AND MAINTENANCE.**  
7

8 The Secretary may transfer to the District, or a mu-  
9 tually agreed upon third party, the care, operation, and  
10 maintenance of the Project under conditions satisfactory  
11 to the Secretary and the District, and with respect to the  
12 portion of the Project that is located within the boundaries  
13 of Camp Pendleton, satisfactory also to the Secretary of  
14 the Navy. If such a transfer takes place, the District shall  
15 be entitled to an equitable credit for the costs associated  
16 with the Secretary's proportionate share of the operation  
17 and maintenance of the Project. The amount of such costs  
18 shall be applied against the indebtedness of the District  
19 to the United States.

20 **SEC. 7. SCOPE OF ACT.**

21 For the purpose of this Act, the basis, measure, and  
22 limit of all rights of the United States pertaining to the  
23 use of water shall be the laws of the State of California.  
24 That nothing in this Act shall be construed—

1           (1) as a grant or a relinquishment by the  
2       United States of any rights to the use of water that  
3       it acquired according to the laws of the State of  
4       California, either as a result of its acquisition of the  
5       lands comprising Camp Joseph H. Pendleton and  
6       adjoining naval installations, and the rights to the  
7       use of water as a part of that acquisition, or through  
8       actual use or prescription or both since the date of  
9       that acquisition, if any;

10          (2) to create any legal obligation to store any  
11       water in the Project, to the use of which the United  
12       States has such rights;

13          (3) to constitute a recognition of, or an admis-  
14       sion that, the District has any rights to the use of  
15       water in the Santa Margarita River, which rights, if  
16       any, exist only by virtue of the laws of the State of  
17       California; or

18          (4) to require the division under this Act of  
19       water to which the United States has such rights.

20 **SEC. 8. LIMITATIONS ON OPERATION AND ADMINISTRA-**  
21 **TION.**

22       Unless otherwise agreed by the Secretary of the  
23       Navy, the Project—

24          (1) shall be operated in a manner which allows  
25       the free passage of all of the water to the use of

1       which the United States is entitled according to the  
2       laws of the State of California either as a result of  
3       its acquisition of the lands comprising Camp Joseph  
4       H. Pendleton and adjoining naval installations, and  
5       the rights to the use of water as a part of those ac-  
6       quisitions, or through actual use or prescription, or  
7       both, since the date of that acquisition, if any; and

8               (2) shall not be administered or operated in any  
9       way which will impair or deplete the quantities of  
10      water the use of which the United States would be  
11      entitled under the laws of the State of California  
12      had the Project not been built.

13 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

14      There is authorized to be appropriated, out of any  
15      money in the Treasury of the United States not otherwise  
16      appropriated, the following—

17              (1) \$60,000,000 (the current estimated con-  
18      struction cost of the Project, plus or minus such  
19      amounts as may be indicated by the engineering cost  
20      indices for this type of construction); and

21              (2) such sums as may be required to operate  
22      and maintain the said project.

23 **SEC. 10. REPORTS TO CONGRESS.**

24      Not later than 1 year after the date of the enactment  
25      of this Act and periodically thereafter, the Secretary and

1 the Secretary of the Navy shall each report to the Con-  
2 gress regarding if the conditions specified in section 2(b)  
3 have been met and if so, the details of how they were met.

4 **SEC. 11. SUNSET.**

5       The authority of the Secretary to complete construc-  
6 tion of the Project shall terminate 10 years after the date  
7 of enactment of this Act.

Passed the House of Representatives December 13,  
2005.

Attest:

KAREN L. HAAS,  
*Clerk.*